

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ISAIAH THOMAS WILLOUGHBY,

Defendant.

No. CR20-111JCC

PLEA AGREEMENT

The United States of America, by and through Tessa M. Gorman, Acting United States Attorney for the Western District of Washington, and Todd Greenberg, Assistant United States Attorney for said District, Defendant Isaiah Thomas Willoughby, and Defendant's attorneys, Dennis Carroll and Jesse Cantor, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c).

1. **Waiver of Indictment.** Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in an Information.

2. **The Charge.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge contained in the Information: *Conspiracy to Commit Arson*, in violation of Title 18, United States Code, Section 371.

By entering the plea of guilty, Defendant hereby waives all objections to the form of the charging document. Defendant further understands that before entering any guilty plea, Defendant will be placed under oath. Any statement given by Defendant under oath may be used by the United States in a prosecution for perjury or false statement.

3. **Elements of the Offense.** The elements of the offenses to which Defendant is pleading guilty are as follows:

First, Defendant knowingly agreed with at least one other person to commit an offense against the United States, that is, Arson, in violation of Title 18, United States Code, Section 844(f)(1) and (i);¹ and

Second, Defendant or a co-conspirator committed any act to effect the object of the conspiracy.

4. **The Penalties.** Defendant understands that the statutory penalties applicable to the offense to which Defendant is pleading guilty are as follows: A maximum term of imprisonment of five (5) years; a fine of up to \$250,000; a period of supervision following release from prison of up to three years; and a mandatory special assessment of \$100 dollars. If a probationary sentence is imposed, the probation period can be for up to five years.

Defendant understands that supervised release is a period of time following imprisonment during which Defendant will be subject to certain restrictive conditions and requirements. Defendant further understands that, if supervised release is imposed and

¹ The elements of the crime of Arson are: Defendant used means of fire to maliciously damage or destroy, or attempt to damage or destroy, a building that was used in interstate or foreign commerce or an activity affecting interstate or foreign commerce [§ 844(i)]; or was in whole or in part owned or possessed by an institution or organization receiving Federal financial assistance [§ 844(f)(1)].

1 Defendant violates one or more of the conditions or requirements, Defendant could be
 2 returned to prison for all or part of the term of supervised release that was originally
 3 imposed. This could result in Defendant serving a total term of imprisonment greater
 4 than the statutory maximum stated above.

5 Defendant understands that as a part of any sentence, in addition to any term of
 6 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
 7 restitution to any victim of the offense, as required by law.

8 Defendant further understands that the consequences of pleading guilty may
 9 include the forfeiture of certain property, either as a part of the sentence imposed by the
 10 Court, or as a result of civil judicial or administrative process.

11 Defendant agrees that any monetary penalty the Court imposes, including the
 12 special assessment, fine, costs, or restitution, is due and payable immediately and further
 13 agrees to submit a completed Financial Statement of Debtor form as requested by the
 14 United States Attorney's Office.

15 **5. Rights Waived by Pleading Guilty.** Defendant understands that by
 16 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

17 a. The right to plead not guilty and to persist in a plea of not guilty;

18 b. The right to a speedy and public trial before a jury of Defendant's
 19 peers;

20 c. The right to the effective assistance of counsel at trial, including, if
 21 Defendant could not afford an attorney, the right to have the Court appoint one for
 22 Defendant;

23 d. The right to be presumed innocent until guilt has been established
 24 beyond a reasonable doubt at trial;

25 e. The right to confront and cross-examine witnesses against Defendant
 26 at trial;

27 f. The right to compel or subpoena witnesses to appear on Defendant's
 28 behalf at trial;

g. The right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and

h. The right to appeal a finding of guilt or any pretrial rulings.

6. **United States Sentencing Guidelines.** Defendant understands and acknowledges that the Court must consider the sentencing range calculated under the United States Sentencing Guidelines and possible departures under the Sentencing Guidelines together with the other factors set forth in Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances of the offenses; (2) the history and characteristics of Defendant; (3) the need for the sentence to reflect the seriousness of the offenses, to promote respect for the law, and to provide just punishment for the offenses; (4) the need for the sentence to afford adequate deterrence to criminal conduct; (5) the need for the sentence to protect the public from further crimes of Defendant; (6) the need to provide Defendant with educational and vocational training, medical care, or other correctional treatment in the most effective manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the need to avoid unwarranted sentence disparity among defendants involved in similar conduct who have similar records. Accordingly, Defendant understands and acknowledges that:

a. The Court will determine Defendant's Sentencing Guidelines range at the time of sentencing;

b. After consideration of the Sentencing Guidelines and the factors in 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the maximum term authorized by law;

c. The Court is not bound by any recommendation regarding the sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Department, or by any stipulations or agreements between the parties in this Plea Agreement; and

d. Defendant may not withdraw a guilty plea solely because of the sentence imposed by the Court.

7. **Ultimate Sentence.** Defendant acknowledges that no one has promised or guaranteed what sentence the Court will impose.

8. **Statement of Facts.** The parties agree on the following facts. Defendant admits Defendant is guilty of the charged offense:

On June 12, 2020, at approximately 3:00 a.m., Isaiah Thomas Willoughby started a fire on the exterior of the SPD East Precinct, located at 1519 12th Avenue, Seattle. Willoughby approached the East Precinct on foot, carrying a container filled with gasoline. Willoughby poured the gasoline onto piled debris lying along the fence next to and against the East Precinct. The debris consisted of combustible materials, including wood and paper.

Willoughby then walked away from the Precinct and returned a few minutes later. He ignited an object in his hand and threw it onto the doused debris pile, causing a fire that spread rapidly through the immediate area. Willoughby walked away from the fire as soon after it ignited. Numerous bystanders rushed to the scene of the fire and extinguished it by scattering the burning debris and using handheld fire extinguishers.

SPD officers inspected the scene of the fire and observed burn marks on the sidewalk; scorch marks on a piece of plywood at the base of a window that had been put up to protect the glass of the East Precinct building; and burn marks on the frame of the East Precinct door immediately to the right of the scorched plywood.

After he set the fire at the East Precinct, Willoughby told family members that he did it because he was angry about the way he had been treated by officers at the East Precinct during a prior arrest.

Willoughby learned that the SPD publicly released surveillance images of him in an effort to identify the perpetrator of the arson. Upon learning this, Willoughby and another person deleted posts from some of Willoughby's social media accounts, which were incriminating for Willoughby as to the arson.

However, Willoughby did not delete a Facebook post that he made on June 9, 2020, a day prior to the arson, which read: "This why Iam [sic] on the front lines of this Regime change in America if you support my parties

1 then we need you on this I am burn it down.” Along with this message,
 2 Willoughby posted a video showing his hands leafing through court
 3 paperwork, including SPD reports and King County Superior Court
 4 documents relating to a June 2018 arrest (by SPD officers) and prosecution
 of Willoughby for robbery and other charges.

5 The East Precinct building is one of the SPD’s primary bases of operation
 6 in the City of Seattle. Among other things, the East Precinct provides 24/7
 7 proactive patrol and 911 emergency response to East Seattle, and other
 8 services including bike patrol, Anti-Crime Teams, Burglary/Theft
 9 investigation, Community Police Teams and Crime Prevention. The Seattle
 10 Police Department is involved in interstate and foreign commerce and in
 activities affecting interstate and foreign commerce, and is also an
 institution and organization that receives Federal financial assistance.

11 The parties agree that the Court may consider additional facts contained in
 12 the Presentence Report (subject to standard objections by the parties) and/or
 13 that may be presented by the United States or Defendant at the time of
 14 sentencing, and that the factual statement contained herein is not intended
 to limit the facts that the parties may present to the Court at the time of
 sentencing.

15 9. **Sentencing Factors.** The parties agree that the following Sentencing
 16 Guidelines provisions apply to this case:

17 A base offense level of 24, pursuant to USSG § 2K1.4(a)(1).

18 The government agrees not to advocate for an upward adjustment under
 19 USSG § 3C1.1 (Obstruction of Justice).

20 The parties agree they are free to present arguments regarding the applicability of
 21 all other provisions of the United States Sentencing Guidelines. Defendant understands,
 22 however, that at the time of sentencing, the Court is free to reject these stipulated
 23 adjustments, and is further free to apply additional downward or upward adjustments in
 24 determining Defendant’s Sentencing Guidelines range.

25 10. **Acceptance of Responsibility.** At sentencing, *if* the Court concludes
 26 Defendant qualifies for a downward adjustment acceptance for acceptance of
 27 responsibility pursuant to USSG § 3E1.1(a) and Defendant’s offense level is 16 or
 28

greater, the United States will make the motion necessary to permit the Court to decrease the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted the United States by timely notifying the United States of Defendant's intention to plead guilty, thereby permitting the United States to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

11. **Recommendation Regarding Imprisonment.** The government agrees to recommend a sentence of 36 months of imprisonment. Defendant is free to recommend any sentence. The parties further agree to jointly recommend that the sentence imposed in this case be run concurrently with any sentence to be imposed in the Assault case pending against Defendant in Seattle Municipal Court. Defendant understands that these recommendations are not binding on the Court and the Court may reject the recommendation of the parties and may impose any term of imprisonment up to the statutory maximum penalty authorized by law. Defendant further understands that Defendant cannot withdraw the guilty plea simply because of the sentence imposed by the Court. Except as otherwise provided in this Plea Agreement, the parties are free to present arguments regarding any other aspect of sentencing.

12. **Restitution.** Defendant agrees that the Court can order Defendant to pay restitution to the Seattle Police Department, the victim of Defendant's crimes. Defendant is aware that the United States will present evidence supporting an order of restitution for all losses caused by all of Defendant's criminal conduct known to the United States at the time of Defendant's guilty plea. In exchange for the promises by the United States contained in this plea agreement, Defendant agrees that Defendant will be responsible for any order by the District Court requiring the payment of restitution for such losses.

a. The full amount of restitution shall be due and payable immediately on entry of judgment and shall be paid as quickly as possible. If the Court finds that the defendant is unable to make immediate restitution in full and sets a payment schedule as contemplated in 18 U.S.C. § 3664(f), Defendant agrees that the Court's schedule represents a minimum payment obligation and does not

1 preclude the U.S. Attorney's Office from pursuing any other means by which to
 2 satisfy the defendant's full and immediately-enforceable financial obligation,
 3 including, but not limited to, by pursuing assets that come to light only after the
 4 district court finds that the defendant is unable to make immediate restitution.

5 b. Defendant agrees to disclose all assets in which Defendant has any
 6 interest or over which Defendant exercises control, directly or indirectly, including
 7 those held by a spouse, nominee, or third party. Defendant agrees to cooperate
 8 fully with the United States' investigation identifying all property in which
 9 Defendant has an interest and with the United States' lawful efforts to enforce
 10 prompt payment of the financial obligations to be imposed in connection with this
 11 prosecution. Defendant's cooperation obligations are: (1) before sentencing, and
 12 no more than 30 days after executing this Plea Agreement, truthfully and
 13 completely executing a Financial Disclosure Statement provided by the United
 14 States Attorney's Office and signed under penalty of perjury regarding
 15 Defendant's and Defendant's spouse's financial circumstances and producing
 16 supporting documentation, including tax returns, as requested; (2) providing
 17 updates with any material changes in circumstances, as described in 18 U.S.C.
 18 § 3664(k), within seven days of the event giving rise to the changed
 19 circumstances; (3) authorizing the United States Attorney's Office to obtain
 20 Defendant's credit report before sentencing; (4) providing waivers, consents or
 21 releases requested by the U.S. Attorney's Office to access records to verify the
 22 financial information; (5) authorizing the U.S. Attorney's Office to inspect and
 23 copy all financial documents and information held by the U.S. Probation Office;
 24 (6) submitting to an interview regarding Defendant's Financial Statement and
 25 supporting documents before sentencing (if requested by the United States
 26 Attorney's Office), and fully and truthfully answering questions during such
 27 interview; and (7) notifying the United States Attorney's Office before transferring
 28 any interest in property owned directly or indirectly by Defendant, including any

1 interest held or owned in any other name, including all forms of business entities
2 and trusts.

3 c. The parties acknowledge that voluntary payment of restitution prior
4 to the adjudication of guilt is a factor the Court considers in determining whether
5 Defendant qualifies for acceptance of responsibility pursuant to USSG § 3E1.1(a).

6 13. **Abandonment of Contraband.** Defendant also agrees that, if any federal
7 law enforcement agency seized any illegal contraband that was in Defendant's direct or
8 indirect control, Defendant consents to the federal administrative disposition, official use,
9 and/or destruction of that contraband.

10 14. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
11 the United States Attorney's Office for the Western District of Washington agrees to
12 dismiss the Indictment filed in this matter and not to prosecute Defendant for any
13 additional offenses known to it as of the time of this Plea Agreement based upon
14 evidence in its possession at this time, and that arise out of the conduct giving rise to this
15 investigation. In this regard, Defendant recognizes the United States has agreed not to
16 prosecute all of the criminal charges the evidence establishes were committed by
17 Defendant solely because of the promises made by Defendant in this Agreement.
18 Defendant agrees, however, that for purposes of preparing the Presentence Report, the
19 United States Attorney's Office will provide the United States Probation Office with
20 evidence of all conduct committed by Defendant. Defendant agrees that any charges to
21 be dismissed before or at the time of sentencing were substantially justified in light of the
22 evidence available to the United States, were not vexatious, frivolous or taken in bad
23 faith, and do not provide Defendant with a basis for any future claims under the "Hyde
24 Amendment," Pub. L. No. 105-119 (1997).

25 15. **Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
26 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
27 Agreement and Defendant may be prosecuted for all offenses for which the United States
28 has evidence. Defendant agrees not to oppose any steps taken by the United States to

1 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
 2 Agreement. Defendant also agrees that, if Defendant is in breach of this Plea Agreement,
 3 Defendant has waived any objection to the re-institution of any charges that previously
 4 were dismissed or any additional charges that had not been prosecuted.

5 Defendant further understands that if, after the date of this Agreement, Defendant
 6 should engage in illegal conduct, or conduct that violates any conditions of release or the
 7 conditions of confinement (examples of which include, but are not limited to, obstruction
 8 of justice, failure to appear for a court proceeding, criminal conduct while pending
 9 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,
 10 Probation Officer, or Court), the United States is free under this Plea Agreement to file
 11 additional charges against Defendant or to seek a sentence that takes such conduct into
 12 consideration by requesting the Court to apply additional adjustments or enhancements in
 13 its Sentencing Guidelines calculations in order to increase the applicable advisory
 14 Guidelines range, and/or by seeking an upward departure or variance from the calculated
 15 advisory Guidelines range. Under these circumstances, the United States is free to seek
 16 such adjustments, enhancements, departures, and/or variances even if otherwise
 17 precluded by the terms of the Plea Agreement.

18 **16. Waiver of Appellate Rights and Rights to Collateral Attacks.** Defendant
 19 acknowledges that, by entering the guilty pleas required by this plea agreement,
 20 Defendant waives all rights to appeal from Defendant's conviction, and any pretrial
 21 rulings of the Court, and any rulings of the Court made prior to entry of the judgment of
 22 conviction. Defendant further agrees that, provided the Court imposes a custodial
 23 sentence that is within or below the Sentencing Guidelines range as determined by the
 24 Court at the time of sentencing, Defendant waives to the full extent of the law:

25 a. Any right conferred by Title 18, United States Code, Section 3742,
 26 to challenge, on direct appeal, the sentence imposed by the Court, including any
 27 fine, restitution order, probation or supervised release conditions, or forfeiture
 28 order (if applicable); and

b. Any right to bring a collateral attack against the conviction and sentence, including any restitution order imposed, except as it may relate to the effectiveness of legal representation.

This waiver does not preclude Defendant from bringing an appropriate motion pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

If Defendant breaches this Plea Agreement at any time by appealing or collaterally attacking (except as to effectiveness of legal representation) the conviction or sentence in any way, the United States may prosecute Defendant for any counts, including those with mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea Agreement.

17. **Voluntariness of Plea.** Defendant agrees that Defendant has entered into this Plea Agreement freely and voluntarily, and that no threats or promises were made to induce Defendant to enter a plea of guilty other than the promises contained in this Plea Agreement or set forth on the record at the change of plea hearing in this matter.

18. **Statute of Limitations.** In the event this Plea Agreement is not accepted by the Court for any reason, or Defendant breaches any of the terms of this Plea Agreement, the statute of limitations shall be deemed to have been tolled from the date of the Plea Agreement to: (1) thirty days following the date of non-acceptance of the Plea Agreement by the Court; or (2) thirty days following the date on which a breach of the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

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